

REMARKS

Receipt of the Office Action of October 20, 2010 is gratefully acknowledged.

Claims 19 - 28 and 30 - 36 have been reexamined with the following result: claims 19 - 28 and 30 - 36 are finally rejected under 35 USC 102(e) by DeWolfe et al.

This final rejection is again respectfully traversed.

The basis of anticipation, 35 USC 102, is identity of elements (apparatus) or of steps (method). The identity, however, is not limited by the bare recitation of the element or the step. The identity is also defined by the functional language associated with the recitation of the element or step, ***Cordis Corp. v. Boston Scientific Corp.***, 90 USPQ2d 1401 (Fed. Cir. 2009)

Claim 9, the only independent claim included in this application, includes three (3) positively recited steps with supporting functional language which should be considered for determining patentability. Claim 9 recites as supporting language the following:

1) field devices used to determine or control a process variable (added by the present invention);

2) utilization of the method in the process automation technology field;

3) the limitation that the manufacturer-specific information is only accessible to the manufacturer and that the manufacturer-specific information contains information about spare-parts or information when the production of each of the field devices will end;

4) the limitation that the customer-specific information is only accessible to the customer; and

5) the limitation that the two databases are electronically queried on the basis of maintenance criteria, whereby the query determines the optimal stock of the spare parts or consumable materials inventory for the chosen maintenance strategy.

In his commentary regarding claim 9, the examiner does not deal with 1) or 2) above. Regarding 3), the examiner states "The invention [DeWolfe] anticipates that given the critical need to have some record of ownership be public, and some private that various embodiments of GAIR would incorporate robust and state of the art security." It is not clear what this statement has to do with 3) above. Regarding 4), the examiner states "The invention [DeWolfe] anticipates that given the critical need to have some records of ownership be public, and some private that various embodiments of GAIR would incorporate robust and state of the art security ." Like the coment regarding 3) above, the same comment applies here. Regarding 5), the examiner states "In an example embodiment, the creation and use of a common, inter-operable source allows for efficiencies to be gained in every component part of the practices currently used."It is not clear here, as well, what this comment has to do with the limitation of 5) above.

The focus of De Wolfe et al is different than that of the present invention. De Wolfe et al misses the steps recited, together, and the limitations noted above in 1) - 5). De Wolfe et al relates to a computer system consisting of computers and a communication network and related software as well as a method of conducting business across the computer network. A Global Asset Information Registry (GAIR) is maintained and accessed by the asset owners and by any combination of organizations and individuals having a relationship to these assets. All this misses the point of the present invention as recited in claim 9 where two databases are established and queried and a conclusion reached. The two are not the same.

U.S. Pat. Appl. 10/500,149

Accordingly, entry of the above noted amendments is respectfully requested and claims 19 - 28 and 30 - 36 found allowable. Alternatively, entry of the present amendments for the purpose of appeal is respectfully requested.

Respectfully submitted,
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